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IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1968

PAUL E. SULLIVAN, et al., *Petitioners*

v.

LITTLE HUNTING PARK, INC., et al.

T. R. FREEMAN, JR., et al., *Petitioners*

v.

LITTLE HUNTING PARK, INC., et al.

ON PETITION FOR A WRIT OF CERTIORARI TO THE  
SUPREME COURT OF APPEALS OF VIRGINIA

PETITIONERS' REPLY  
TO THE BRIEF IN OPPOSITION

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IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

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No. 929

PAUL E. SULLIVAN, et al., *Petitioners*

v.

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/ Respondents seriously misrepresent the record when they assert: "The three members of the Board who testified in the trial court stated that there was no discussion by the Board, of Dr. Freeman's race" (br. in op., p. 5). None of the three board members who testified—Virginia Moore (T. 182-235, 298-317), S. L. Lennon (T. 258-277), or Oskar Egger (T. 277-291)—made any such statement. Further, Board Chairman Moore admitted that when the directors voted to disapprove the assignment of the share to Dr. Freeman they were aware that he was a Negro (T. 204); it is immaterial, therefore, whether, as respondents state, the application for assignment of membership contained any information concerning race (br. in op., p. 5).

Mr. and Mrs. Paul E. Sullivan both testified without contradiction that when they were visited at their home on May 28, 1965, by the three-man delegation from the board of directors, Mr. Hanley, the spokesman, indicated clearly to them that Dr. Freeman had been denied the share assignment because of his race (T. 17-18, 164). At no time previously in this proceeding have respondents seriously denied that the assignment of the share to Dr. Freeman was disapproved because he is a Negro (see, *e.g.*, T. 239-240, 281). It ill behooves respondents at this time, therefore, to try to create the impression that race is not the pivotal factor in these cases.

2. The settlement stipulation in another legal action between Paul E. Sullivan and Little Hunting Park, Inc., which is referred to by respondents (*br. in op.*, p. 5), was noted by the trial judge, but he specifically refused to pass on its effect, if any, on Sullivan's suit that is at issue here (*pet. appendix*, p. 39). The stipulation, entered into on July 16, 1965, between the parties in *Paul E. Sullivan v. Little Hunting Park, Inc.*, Chancery No. 21663, Circuit Court of Fairfax County, was raised by respondents only as a defense to the prayer in Sullivan's complaint herein which sought reversal of the directors' refusal to approve assignment of the share from Sullivan to Freeman (T. 83, 84-85, 88). Since the state court did not rule on the legal effect of the stipulation, however, it is not at issue before this Court. Furthermore, the stipulation is not a bar, in any event, to Freeman's suit at issue herein, and it has no bearing on Sullivan's expulsion from the association nor is it a defense to his action for reinstatement.

Finally, the trial judge's remark that the stipulation, if he were to pass on it, might be a valid defense to part of Sullivan's complaint, stems from a misunderstanding of the agreement. It is clear from the evidence that the conditions of the stipulation were never met, because, first, there was never a "meeting of the general membership . . . held pursuant to [Sullivan's] petition calling the same" (T. 84).

Rather, the record shows that the membership meeting held on July 29, 1965, had an agenda substantially different from the one contained in Sullivan's petition, and the corporation's membership, as such, never voted because the meeting was too disorderly and participated in by many people who were not members (T. 73-80, 174-175, 207-210, 261, 268-271, 318-321, 323-324, 325). Secondly, the stipulation only referred to "the assignment of the membership for this [1965] swimming year," and in no way barred Sullivan's continuing effort, by legal action or otherwise, to obtain approval of the assignment for 1966 and subsequent swimming years. In view of the foregoing, it is plain that respondents' reference to the stipulation at this time is misleading, for it is of no legal significance in relation to this Court's resolution of the important legal questions presented by this proceeding.

Respectfully submitted,

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